

**Conference for Food Protection
2018 Issue Form**

Issue: 2018 I-011

Council Recommendation: Accepted as Submitted _____ Accepted as Amended _____ No Action _____

Delegate Action: Accepted _____ Rejected _____

All information above the line is for conference use only.

Issue History:

This is a brand new Issue.

Title:

Amend Food Code - Whole Muscle Intact Beef Labeling

Issue you would like the Conference to consider:

On May 18, 2015, Food Safety and Inspection Services (FSIS) published a final rule to establish labeling requirements for raw or partially cooked mechanically tenderized beef products (Descriptive Designation of Needle- or Blade-Tenderized (Mechanically Tenderized) Beef Product (80 FR 28153)). The rule amends the regulations by adding 9 CFR 317.2(e)(3).

The new labeling requirements provide household consumers, official establishments, restaurants, and retail stores the information they need to distinguish a cut of beef that is an intact, non-tenderized product, from a non-intact, mechanically tenderized product.

With this requirement, those cuts of beef that are not manipulated can be considered as WHOLE MUSCLE, INTACT BEEF if they are not labeled with the requirement as set forth by FSIS.

Public Health Significance:

The requirement that steaks, to meet the lower cooking requirements of a surface temperature of 145 F with no consumer advisory, be labeled as WHOLE MUSCLE, INTACT BEEF no longer applies. As long as beef steak packaging does not have the required labeling, they can be considered WHOLE MUSCLE, INTACT BEEF.

Recommended Solution: The Conference recommends...:

that a letter be sent to FDA requesting the most current edition of the Food Code be amended to include the following (new language is in underline format and deleted language is in strikethrough format):

Section 3-201.11(E)

(E) WHOLE MUSCLE, INTACT BEEF steaks that are intended for consumption in an undercooked form without a CONSUMER advisory as specified in ¶ 3-401.11 (C) shall be:

(1) Obtained from a FOOD PROCESSING PLANT that, upon request by the purchaser, PACKAGES the steaks and labels them, to indicate that the steaks meet the definition of WHOLE?MUSCLE, INTACT BEEF, Pf or

(2) Deemed acceptable by the REGULATORY AUTHORITY based on other evidence, such as written buyer specifications or invoices, that indicates that the steaks meet the definition of WHOLE?MUSCLE, INTACT BEEF, Pf ~~and~~ or

(3) Not labeled as mechanically tenderized as required in 9 CFR 317.2(e)(3); Pf and

~~(3)~~ (4) If individually cut in a FOOD ESTABLISHMENT:

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Supporting Attachments:

- "FSIS NOTICE 33-17"

It is the policy of the Conference for Food Protection to not accept Issues that would endorse a brand name or a commercial proprietary process.

UNITED STATES DEPARTMENT OF AGRICULTURE
FOOD SAFETY AND INSPECTION SERVICE
WASHINGTON, DC

FSIS NOTICE

33-17

6/7/17

VERIFYING LABELING OF DESCRIPTIVE DESIGNATION FOR NEEDLE- OR BLADE-TENDERIZED RAW BEEF PRODUCTS AS REQUIRED BY 9 CFR 317.2(e)(3)

I. PURPOSE

This notice provides instructions for Office of Investigation, Enforcement and Audit (OIEA) Compliance and Investigations Division (CID) Investigators to verify whether retail stores are meeting labeling requirements for raw or partially cooked needle or blade tenderized beef as specified in [9 CFR 317.2\(e\)\(3\)](#), as instructed in [FSIS Directive 8010.1](#), *Methodology for Conducting In-Commerce Surveillance Activities*, Section IV.

II. BACKGROUND

A. On May 18, 2015, FSIS published a final rule to establish labeling requirements for raw or partially cooked mechanically tenderized beef products ([Descriptive Designation of Needle- or Blade-Tenderized \(Mechanically Tenderized\) Beef Product \(80 FR 28153\)](#)). The rule amends the regulations by adding [9 CFR 317.2\(e\)\(3\)](#).

B. The new labeling requirements provide household consumers, official establishments, restaurants, and retail stores the information they need to distinguish a cut of beef that is an intact, non-tenderized product, from a non-intact, mechanically tenderized product.

III. REQUIREMENTS OF THE FINAL RULE

A. Under [9 CFR 317.2\(e\)\(3\)](#) the product name for a mechanically tenderized beef product must contain a descriptive designation:

1. "Mechanically Tenderized" or, if needle tenderized the product can be described as "Needle Tenderized," or if blade tenderized, the product can be described as "Blade Tenderized."
2. The product name and the descriptive designation must be printed in a single easy-to-read type style and color and must appear on a single-color contrasting background. The print may appear in upper and lower case letters, with the lower case letters not smaller than one-third (1/3) the size of the largest letter, and with no intervening text between the identity of the meat and the descriptive designation. The descriptive designation may be above, below, or next to the product name without intervening text or graphic on the principal display panel.

NOTE: See Attachment for label examples.

B. The labels of raw or partially cooked needle- or blade-tenderized raw beef products destined for household consumers, hotels, restaurants, or similar institutions must also bear validated cooking instructions. Validated cooking instructions must include, at a minimum:

1. The cooking method (e.g. grill or bake);

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2. That these products need to be cooked to a specified minimum internal temperature;
3. Whether these products need to be held for a specified time at that temperature or higher before consumption to ensure that potential pathogens are destroyed throughout the product; and
4. A statement that the internal temperature should be measured by a thermometer.

NOTE: The validated cooking instructions may appear anywhere on the label. An example of an instruction that contains these minimum elements is "Grill until product reaches 145°F, as measured by a food thermometer, and hold the product at or above that temperature for 3 minutes."

C. Beef products that are not subject to the requirements of the final rule include:

1. Non-intact beef products that are clearly non-intact (e.g. ground beef patties, hamburger patties, or beef patties).
2. Beef products that are tenderized by other than needle and blade, such as pounding or cubing, which visibly changes the appearance of the product (e.g. cubed beef steak).
3. Any beef product that has been fully cooked.
4. Raw or partially cooked products labeled as "Corned Beef" that have been mechanically tenderized (including through injection of a solution).
5. Raw mechanically tenderized beef products that are less than 1/8" thick, such as, beef bacon or carne asada, or raw mechanically tenderized beef products that are diced, such as stew meat.

IV. APPLICABILITY AT RETAIL STORES

When retail stores produce and package or repackage raw or partially cooked needle- or blade-tenderized raw beef products, the retail label must comply with [9 CFR 317.2\(e\)\(3\)](#) with the exception of products wrapped in butcher paper or placed in a carry-out container at a retail store upon a consumer's request.

V. OIEA COMPLIANCE INVESTIGATOR (CI) RESPONSIBILITIES IN A RETAIL STORE THAT PRODUCES AND PACKAGES OR REPACKAGES MECHANICALLY TENDERIZED RAW BEEF

A. If a retail store packages or repackages raw or partially cooked needle- or blade-tenderized raw beef product that was produced at an official establishment, the CI is to verify that the descriptive designation and validated cooking instructions from the incoming product label appear on the retail label and comply with [9 CFR 317.2\(e\)\(3\)](#).

B. If a retail store produces and packages raw or partially cooked needle- or blade-tenderized, the CI is to verify that the retail store is complying with the requirements in [9 CFR 317.2\(e\)\(3\)](#), including verification that the retail store has the appropriate supporting documentation to validate the cooking instructions provided on the label. NOTE: If the CI has questions regarding the adequacy of the support, they are to seek guidance from their immediate supervisor or submit a question via [askFSIS](#).

C. CIs are to be aware that retail stores may wish to include additional information within the validated cooking instructions that will make the labels more useful to consumers; however, FSIS does not require additional information on the product labels. For example, retail stores may wish to include the temperature setting of the cooking device, time to complete cooking, whether the product needs to be flipped during cooking, the amount of time to cook on each side exposed to the heat source, recommendations to thaw the product, if applicable, or recommendations to measure the temperature in thickest part of the product, etc.

D. When a CI observes labeling that does not meet the requirements in [9 CFR 317.2\(e\)\(3\)](#), he or she is to document the violation in accordance with [FSIS Directive 8010.4](#), *Report of Investigation*, recommending issuance of a Notice of Warning.

VI. QUESTIONS

Refer questions regarding this notice to the Labeling and Program Delivery Staff through [askFSIS](#). When submitting a question, use the Submit a Question tab, and enter the following information in the fields provided:

Subject Field: Enter **Notice 33-17**
Question Field: Enter your question with as much detail as possible.
Product Field: Select **Labeling** from the drop-down menu.
Category Field: Select **Labeling Regulations, Policies and Claims** from the drop-down menu.
Policy Arena: Select Domestic (U.S.) Only from the drop-down menu.

When all fields are complete, press Continue and at the next screen press Finish Submitting Question.

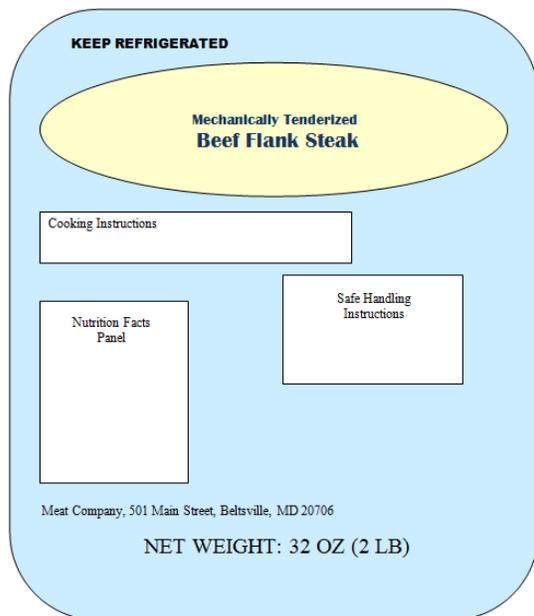
NOTE: Refer to [FSIS Directive 5620.1](#), *Using askFSIS*, for additional information on submitting questions.



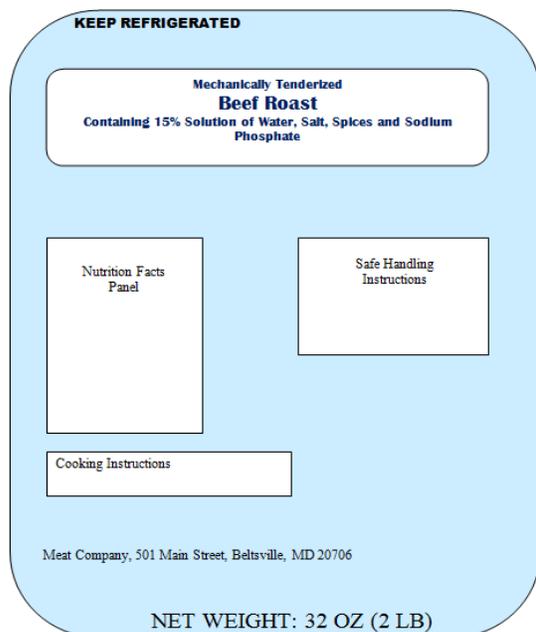
Assistant Administrator
Office of Policy and Program Development

EXAMPLES OF LABELS ON BEEF PRODUCTS PRODUCED AND PACKAGED OR RE-PACKAGED AT A RETAIL STORE

1. A mechanically tenderized flank steak label with all required information:



2. A mechanically tenderized beef roast with added solution label with all required information:



3. The principal display panel and information panel for a mechanically tenderized flank steak:

